

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Thomas J. Simmons	Chairman
Robert W. Johnson	Vice Chairman
Robert J. Ferderer	Member
Wesley Scheel	Ex-Officio Member

In the Matter of the Joint Resolution
of the City of Stillwater and the Town
of Stillwater for the Orderly Annexation
of Certain Land to the City of Stillwater

AMENDED
FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on April 12, 1978, at Stillwater, Minnesota. The hearing was conducted by William Neiman, Executive Director pursuant to Minnesota Statutes 414.01, Subd. 12. Also in attendance was County Commissioner Wesley R. Scheel and former Commissioner Millard W. Axelrod. Testimony was heard, and records and exhibits were received. The hearing was continued from time to time.

The City of Stillwater appeared by and through David T. Magnuson, Esquire; the City of Oak Park Heights appeared by and through Lyle J. Eckberg, Esquire; and the Township of Stillwater waived any appearance, since the matter was before the Municipal Board on the Joint Resolution of both the Township of Stillwater and the City of Stillwater. Testimony was served and records and exhibits were received. The hearing was continued from time to time.

After due and careful consideration of all the evidence, together with all the files, records and proceedings, the Minnesota Municipal Board hereby makes and files the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

I.

That a Joint Resolution for orderly annexation was adopted by the City of Stillwater and the Township of Stillwater on August 21, 1975, and duly accepted by the Minnesota Municipal Board.

II.

The Resolution was filed by one of the signatories to the Joint Resolution, the City of Stillwater, on February 9, 1978, requesting annexation of certain portions of the orderly annexation area. The Resolution contained all of the information required by statute, including description of the territory subject to annexation which is as follows:

PARCEL A:

The Southeast Quarter of the Southwest Quarter of Section Thirty-three (33), Township Thirty (30), Range Twenty (20) West, except the West One-Half of the West One-Half of the Southeast Quarter of the Southwest Quarter of Section Thirty-three (33), Township Thirty (30), Range Twenty (20) West.

PARCEL B:

That part of the Northwest Quarter of the Southwest Quarter of Section Thirty-three, Township Thirty, Range Twenty West, being the South 170 feet of the North 270 feet of that part of said Quarter Quarter, except the South 10 feet of the North 270 feet as described as follows:

Beginning at the Southwest corner of said tract and thence running North along the West line of said tract 822 feet to a point, running thence East at right angles 489 feet more or less to the centerline of the travelled road running Northerly and Southerly across said tract, running thence South along the centerline of said travelled road to the South line of said Quarter Quarter and running thence West along the South line of said tract to the place of beginning.

III.

Due, timely and adequate legal notice of the hearing was published, served and filed.

IV.

Geographic features:

a) The area subject to annexation is unincorporated and Parcel A abuts both the City of Stillwater and the City of Oak Park Heights; Parcel B is unincorporated and abuts the City of Stillwater.

b) The total area of the City of Stillwater is 3,674 acres. The total area of the territory subject to annexation is 38.6 acres, subject to easement of record.

c) The perimeter of the area to be annexed is in regard to Parcel A - 19% bordered by the City of Stillwater, and 25% bordered by the City of Oak Park Heights; and in regard to Parcel B - the area to be annexed is 100% bordered by the City of Stillwater.

d) The natural terrain of the area, including general topography, major watersheds, soil conditions, rivers, lakes and major bluffs is as follows:

There is a relatively flat shelf of Parcel A that is on approximately the same grade as Minnesota State Trunk Highway No. 212 and 36 which borders the South end of Parcel A. The balance of Parcel A contains rolling hills some of which are relatively steep. The natural watershed of the area was tributary directly to the St. Croix River but due to the intervening construction of State Trunk Highway No. 212 and other man-made structures, the property no longer drains directly towards the St. Croix River. The current drainage pattern of the property is to the Northwest into the City of Stillwater, which drainage ultimately enters Brick Pond and Lily Lake within the City of Stillwater. There are no rivers, lakes or major bluffs in the area described in Exhibit A of the petition. The area described in Exhibit B is a relatively narrow parcel of property that compromises both a drainage ditch and a prospective right of way for a future road leading into the Stillwater Industrial Park from County Road 66 otherwise known as Oasis Avenue. Parcel B is unremarkable in geographic conditions.

V.

Population Data:

a) The City of Stillwater in the year 1970 was populated by 10,196 residents. The present estimated population of the City of Stillwater, according to the April, 1979, estimates provided by the Metropolitan Council is 13,480 persons. In 1990, the projected population of the City of Stillwater is 13,500.

b) In the area subject to annexation prior to 1975, one dwelling house was located thereon that is now a duplex and it is estimated that seven people resided therein. All other property in the area proposed for annexation is either commercially developed or is vacant and has no population attributable to it. The projected population of the area proposed for annexation does not show any increase and it is contemplated the area will be developed according to its zoning which is commercial.

c) In the Township of Stillwater in 1970, there were 990 residents residing therein. The present estimated population of the Township, according to the most recent Metropolitan Council estimate dated April, 1979, is 1,430. By 1990, the projected

population is 3,600 persons.

VI.

Development Issues:

a) The pattern of physical development, including land already in use, in the process of being developed and remaining for various uses include the following:

1) Area in Use.

(a) Existing Land Use, March, 1979, City of Stillwater:

<u>Land Use Type</u>	<u>Area in Acres</u>
Residential	1,258.5
Apartments & Nursing Homes (16.0)	
Duplexes (14.0)	
3-4 Units (3.9)	
1-Family (1,224.6)	
Commercial	34.0
Industrial	53.4
Utilities	1.3
Railroad	30.0
Schools	161.9
County	14.2
Federal	1.2
State	21.7
City	220.0
Parks (143.7)	
Semi-Public	159.6
Public Streets	765.2
Water Bodies	584.0
Vacant	<u>369.0</u>
Total Acres	3,674.0

(b) In the area subject to annexation, 36.80 acres in Parcel A that is partially zoned Limited Business and partially zoned General Business and 1.8 acres in Parcel B that is currently zoned Two-Family.

(c) In the Township of Stillwater, there remains approximately 18 square miles of property that is zoned in a combination of various uses.

2) Area Being Developed.

(a) In the City of Stillwater, there is currently 3 acres of residential property, 11 acres of commercial property, and 3 acres of industrial property wherein construction is now underway or about to begin.

(b) In the area subject to annexation, there is no actual construction or construction or development about to begin.

(c) There was no evidence presented as to the area being developed in the Township of Stillwater.

3) Area Remaining for Various Uses.

(a) In the City of Stillwater there is the following area remaining for various uses:

(1) Residential - 15 acres.

(2) Institutional - 156 acres.

(3) Commerical - 100 acres.

(4) Industrial - 108 acres.

(5) Agricultural - 0 acres.

(b) In the area subject to annexation, there are approximately 18 acres remaining undeveloped which is zoned a combination of General and Limited Business in regard to Parcel A and the entire Parcel B remains undeveloped.

(c) In the Township of Stillwater there was no evidence presented relative to area remaining for various uses.

4) Transportation.

(a) The present transportation network in the City of Stillwater is adequate to serve all municipal needs. The City is bounded on the southern boundary for the most part by Minnesota State Trunk Highway No. 212 and is also served by State Highway No. 95 and State Highway No. 96. The City of Stillwater is intersected by many county highways, has an adequate number of collector streets that intersect with these highways to provide municipal residents with adequate transportation.

(b) In the area subject to annexation in regard to Parcel A, the property is bordered on the South by the northerly service lane of Minnesota State Trunk Highway No. 212 and currently has no through collector streets transecting the parcel. It was recommended by the various planners testifying at the hearing that no North and South streets

be extended through Parcel A and that at the most an intersecting East and West street at some time in the future be located through the geographic center of Parcel A.

As far as Parcel B is concerned, the East boundary line of the property is currently the border of Oasis Avenue also known as County Trunk Highway 66 and there was testimony that the entire parcel be at some time in the future might constitute nothing more than the right of way of an East - West street serving the Stillwater Industrial Park, with the balance being used to house a drainage ditch or other storm water drainage facilities.

VII.

Land Use Controls and Planning, Including Comprehensive Plans in the City and the Area Subject to Annexation:

a) The City of Stillwater currently has in effect, zoning and subdivision regulations and submitted as evidence at the hearing, the official map of the City. There was evidence that the City of Stillwater employs a Building Inspector, has adopted the Uniform Building Code, has a full time Public Safety Director which position has the supervisory capability over both the Police Department and the Fire Department. The City of Stillwater has a full time Fire Department that is complemented by volunteer help and a Police Department that has both full time and reserve capabilities. Testimony indicated that the zoning and subdivision controls along with the Fire Department, Police Department, Building Inspector and Planning Commission provide adequate municipal services to the City of Stillwater and are capable of providing the area proposed for annexation with the same services.

b) There was no evidence presented by the Township of Stillwater relative to zoning and subdivision controls, the comprehensive plan, and official map or a capital improvements program. No evidence was submitted as to a Building Inspector or any other municipal services.

c) In the area subject to annexation, evidence was presented that the area is administered by the Joint Powers Committee which was initiated by the Orderly Annexation Agreement facilitating this present

annexation. The Joint Powers Committee initiated in 1975 and subsequently ratified by an act of the Legislature provides for zoning and land use controls within the entire Joint Powers Area, which constitutes the southern one-half of the area designated for orderly annexation. Currently adopted by the Joint Powers Committee has been the Washington County Model Subdivision Code together with the Washington County Model Zoning Ordinances and other ordinances contained in the Washington County Development Code. There was evidence presented that the Washington County Planning and Zoning Department currently administrates subdivision and zoning matters within the area proposed for annexation and that if the annexation were allowed to the City of Stillwater, the same ordinance, subdivision controls and General Development Guide would apply to the area since it is part of the Joint Powers Area and administered by the Joint Powers Committee whether it is in the City of Stillwater or the Township of Stillwater. Evidence was presented that the Joint Powers Committee is currently in the process of preparing a Comprehensive Plan for the area and that there is no inconsistency between any proposed development for the area and the planning and land use controls that are now in effect. The planning and land use controls would remain the same at least until the year 1985 when the Joint Powers Agreement and Orderly Annexation Agreement expire according to its terms.

VIII.

Governmental Services:

a) There was no evidence presented relative to governmental services provided to the area subject to annexation by the Township of Stillwater.

b) The City of Stillwater currently provides its residents with the following services:

1) There is a complete municipal water department that is operated independently but still is a branch of the municipal government of the City of Stillwater.

2) The City of Stillwater is also the owner of laterals and interceptors providing complete sanitary sewer service and storm sewer service to the people of the City of Stillwater. The laterals and interceptors owned by the City empty into

a Metropolitan Waste Control Commission Sewer Plant located in the City of Stillwater. The sewer plant was constructed by the City of Stillwater in 1959 and has subsequently been expanded and its capacity increased and acquired by the Metropolitan Waste Control Commission.

3) The City of Stillwater also has a Class 5 Fire Rating, including a Fire Department that is comprised of full time and part time help, with two men on duty 24 hours a day. The reserve capacity of the Fire Department is complemented by approximately 30 volunteers. The Fire Department has 4 pumpers, a ladder truck, a rescue truck, a tanker truck and pickup trucks for the handling of small grass fires.

4) The Police Department of the City of Stillwater is comprised of 14 full time policemen along with 12 part time officers. The Police Department has five marked squad cars and two unmarked cars and is connected to the Washington County Emergency Communications System which is a central clearing house for radio messages operated by the Washington County Sheriff's Office.

5) There is a regular street improvement plan for the City of Stillwater wherein streets are sealcoated on a regular basis and needed improvements are made according to a street maintenance and improvement plan.

6) Recreational facilities of the City of Stillwater include many and varied parks including Lowell Park adjacent to the St. Croix River in Downtown Stillwater and Pioneer Park located on the North Hill of Stillwater; a large ice arena which provides indoor ice facilities to various hockey teams and figure skating groups throughout the Washington County area.

7) A public library is provided by the City of Stillwater which recently has undergone a large renovation to provide library facilities to the people of the City.

8) Additional administrative services are provided in the City Hall of the City of Stillwater which houses a number of offices, including the financial center of the City and the City Clerk's Office.

c) The City of Stillwater currently provides the area subject to annexation with fire protection and police protection and the City of Oak Park Heights currently provides portions of the Parcel A adjacent to the frontage road with sewer and water facilities.

Parcel B, however, is provided with the full range of municipal services from the City of Stillwater.

In regard to Parcel A, the evidence indicated that the City of Stillwater is capable of providing the full range of municipal services to Parcel A, including fire protection, police protection, street improvement, street maintenance, administrative services, library, recreational facilities and in addition, could provide the area proposed for annexation, both Parcel A and Parcel B that is not already provided with municipal sewer and water facilities with sewer and water facilities. Engineering testimony indicated that the balance of Parcel A that is not already provided with sewer and water facilities from the City of Oak Park Heights could be feasibly sewer through existing sewer facilities in the City of Stillwater to the Northwest of the property proposed for annexation with the construction of an additional lift station and that this manner of providing municipal sewer services to the area proposed for annexation is reasonable.

d) There appeared to be no existing or potential environmental problems relative to the land proposed for annexation.

e) The plans and programs of the annexing municipality to provide needed governmental service for the area proposed for annexation include:

1) Plans to continue providing both police and fire protection to the property proposed for annexation, in addition to plans for providing for the recreational and administrative needs of any residents of the area proposed for annexation, including providing any needed street improvements or street maintenance and the capability of furnishing the remaining area in both parcels proposed for annexation with sewer and water services.

IX.

Tax Base:

a) In the City of Stillwater the tax base includes the following:

- 1) Residential property assessed in 1978 payable in 1979, was assessed at \$27,482,754.00.
- 2) Commercial property assessed in 1978 payable in 1979, was assessed at \$4,216,303.00.
- 3) Industrial property assessed in 1978 payable in 1979, was assessed at \$314,562.00.
- 4) Agricultural property assessed in 1978 payable in 1979, was assessed at \$81,022.00.
- 5) Vacant land assessed in 1978 payable in 1979, was assessed at \$62,184.00.
- 6) Non-taxable property, including institutional use, was last assessed in 1974 and has an assessed value of \$11,456,203.00.

b) In the Township of Stillwater the tax base includes the following:

- 1) Residential property assessed in 1978 payable in 1979, was assessed at \$4,597,513.00.
- 2) Commercial property assessed in 1978 payable in 1979, was assessed at \$290,661.00.
- 3) There was no industrial property located in the Township and therefore, it was assessed at zero.
- 4) Agricultural property assessed in 1978 payable in 1979, was assessed at \$1,338,488.00.
- 5) Non-taxable property, including institutional use, was last assessed in 1974 at \$677,928.00.

c) In the area subject to annexation, assessed in 1978 payable in 1979, the tax base includes the following:

<u>Property Number</u>	<u>Assessed Value</u>
95033-2010	\$ 36,685
95033-2030	138,443
95033-2055	22,081
95033-2060	11,308
95033-2820	4,825
95033-2825	473
95033-2000	2,129
TOTAL:	215,944

X.

Tax Data:

a) Mill Rate Trends:

	Payable 1976	Payable 1977	Payable 1978	Payable 1979
City of Stillwater	Urban 23.24	Urban 24.80	Urban 32.45	Urban 31.44
	Rural 4.74	Rural 7.51	Rural 11.50	Rural 10.71
		Annex 11.23	Annex 17.32	Annex 21.42
			Annex 12.31	Annex 16.42
Stillwater Township	7.26	7.58	7.28	6.40
School District 834	59.40	59.93	58.09	54.24
Washington County	City 24.85	City 23.82	City 23.08	City 23.92
	Township 26.08	Twnshp 25.15	Twnshp 24.50	Twnshp 25.32

b) Bonded Indebtedness:

- 1) City of Stillwater - \$5,439,000 outstanding on the year ended December 31, 1978.
- 2) Township of Stillwater - \$101,000 outstanding on the year ended December 31, 1978.

XI.

The City will bear increased costs as the result of this annexation. These costs have been experienced since 1975 and will continue in all of the areas designated for orderly annexation since incidental to the agreement, the City of Stillwater and the Township of Stillwater agreed to provide full police protection and fire protection to the area for \$1.00 per year. In addition, the entire administrative and governmental functions of the City of Stillwater will be needed to provide services to this area even though only a portion of the tax attributable to the area will be returned to the City in each year and the full tax generated by the area subject to annexation will not be returned to the City until five years from the date of this Order. In spite of the sharing of taxes as aforesaid, the City of Stillwater is required to provide the full gamut of municipal services to the area.

XII.

The City of Oak Park Heights was allowed to participate in this hearing and allowed to submit evidence in regard to development issues in the City of Oak Park Heights, the area in use in the City of Oak Park Heights, area being developed, and the area remaining for various uses. Evidence was also presented by Oak Park Heights in regard to transportation issues, land use controls, planning and comprehensive plans for the area proposed for annexation. Oak Park

Heights presented evidence as to governmental services that they allege were available, including water, sewer, fire protection, street improvements and maintenance, recreational and other administrative services.

Annexation to the City of Stillwater, however, is the best alternative for the following reasons:

a) The area proposed for annexation is part of an area being designated for in need of orderly annexation to the City of Stillwater and is currently and has been planned by the Joint Powers Committee, comprised on representatives of the City of Stillwater and the Township of Stillwater and the County of Washington. The area proposed for annexation has been studied and planned for the eventual inclusion into the City of Stillwater.

b) The area proposed for annexation is part of a logical planning area that includes the City of Stillwater and the area proposed for annexation, since State Trunk Highway No. 212 is a prominent physical barrier that separates the City of Oak Park Heights from the City of Stillwater. This is a much more natural logical boundary between the City of Stillwater and the City of Oak Park Heights and would allow the City of Stillwater to develop a park strip on the North end of the property proposed for annexation in order to buffer development on the property proposed for annexation from the residential district located adjacent and to the North of the property proposed for annexation and in the City of Stillwater.

c) The plan of the City of Stillwater reveals that traffic would not be routed from the area proposed for annexation through an existing street in the City of Stillwater but would rather be coordinated from on an East to West basis.

d) State Trunk Highway No. 212, a four-lane divided highway, that separates most of the City of Oak Park Heights from the area proposed for annexation is owned by the state of Minnesota and local cooperation is not needed for its maintenance. It is like a river that flows between the area designated for orderly annexation and the City of Oak Park Heights. The barrier allows for the easy

identification of community and municipal services and the annexation of the property proposed to the City of Stillwater would assist in the smooth flow of municipal services based on easy municipal identification.

e) Annexation of the property proposed for annexation would provide the City of Stillwater with additional needed commercial and industrial tax base, which they will be able to service with sewer, water and other governmental services.

f) The area abuts on a residential area in the City of Stillwater and would allow for one government to plan for the clash in uses between the property proposed for annexation and the residential area to the North. It would be in the best interests of all areas involved that the parties affected in the residential area to the North of the property proposed for annexation be given the opportunity to be a part of the same government that handles the development issues and the property proposed for annexation.

g) The City of Stillwater has a Fire Department with full time staff. The City of Oak Park Heights has no Fire Department and must contract with the City of Bayport for protection. Stillwater has a fire rating of 5 and Oak Park Heights has a fire rating of 6.

h) The City of Stillwater will be called upon to handle storm drainage for commercial development within the annexation area and therefore, it should have control over zoning and land use within the area. The visual development of the area, including acquisition and dedication of a park strip on the North end of the property proposed for annexation could be better accomplished by the City of Stillwater.

i) The Township of Stillwater is unable to deliver the full range of municipal services to the property proposed for annexation.

j) All necessary governmental services can best be provided to both parcels proposed for annexation by annexation to the City of Stillwater rather than to any other community.

k) The present assessed valuation of the Township of Stillwater is \$6,289,366.00. The present assessed valuation of the property proposed for annexation is \$215,944.00. The new assessed valuation

of the Township of Stillwater, if the entire area is annexed, is \$6,073,422.00.

1) The Township of Stillwater can continue to function without the area subject to annexation and the area could not be incorporated separately or combined with any other governmental unit.

XIII.

The annexation is consistent with the Joint Powers Agreement referred to herein variously as the Joint Resolution for Orderly Annexation by and between the City and Township of Stillwater.

CONCLUSIONS OF LAW

I.

The Minnesota Municipal Board duly acquired and now has jurisdiction of the within proceeding.

II.

The area subject to annexation is now or is about to become urban or suburban in nature and the City of Stillwater is capable of providing services required by the area within a reasonable time.

III.

The existing Township form of government is not adequate to protect the public health, safety, and welfare.

IV.

The annexation would be in the best interests of the area proposed for annexation.

V.

The annexation does not conflict with terms of the Joint Powers Agreement.

VI.

Because of potential increased costs, the City of Stillwater may qualify for a special levy.

VIII.

Five years will be required to effectively provide full That the Orderly Annexation Agreement between the City municipal services to the annexed area, or to comply with the terms of Stillwater and Township of Stillwater prevails over any claim and conditions of the Orderly Annexation Agreement as it relates upon the annexation agreement by the City of Oak Park Heights- to the mill levy step up rate.

IX.

An Order should be issued by the Minnesota Municipal Board annexing the area described herein.

ORDER

I. IT IS HEREBY ORDERED, that the property described herein situated in the County of Washington, State of Minnesota, be and hereby is annexed to the City of Stillwater, Minnesota, the same as if it had been originally made a part thereof.

II. IT IS FURTHER ORDERED, that the assets and obligations of the Township of Stillwater and the City of Stillwater being subject to the provisions of Minnesota Statutes 414.067, are apportioned as follows:

That the City of Stillwater will assume none of the bonded indebtedness of the Township of Stillwater and the Township of Stillwater will assume none of the bonded indebtedness of the City of Stillwater; and that real estate taxes generated from the property proposed for annexation shall be shared between the Township of Stillwater and the City of Stillwater according to the terms of the Orderly Annexation Agreement referred to herein.

III. IT IS FURTHER ORDERED, that the population of the City of Stillwater has not increased by reason of this annexation and that the population of the Township of Stillwater has not decreased for all purposes until the next federal census.

IV. IT IS HEREBY ORDERED, that the Minnesota Municipal Board hereby retains jurisdiction for the purpose of allowing a special levy pursuant to Minnesota Statutes 414.01, Subd. 15.

V. IT IS FURTHER ORDERED, that the mill levy of the City of Stillwater on the property herein ordered annexed shall be increased in substantially equal proportions over a period five years to equality with the mill levy of the property already within the City.

VI. IT IS FURTHER ORDERED, that the effective date of this Order is on the date of its execution by the Minnesota Municipal Board.

Amended Order Dated this
17th day of July, 1981.

MINNESOTA MUNICIPAL BOARD
165 Metro Square Building
St. Paul, Minnesota 55101

Terrence A. Merritt
Terrence A. Merritt
Executive Director

Dated this 9th day of October, 1979.

MINNESOTA MUNICIPAL BOARD
165 Metro Square Building
St. Paul, Minnesota 55101

Terrence A. Merritt
Terrence A. Merritt
Executive Director

M E M O R A N D U M

On October 20, 1980, District Court Judge Esther M. Tomljanovich remanded OA-117-3 Stillwater to the Minnesota Municipal Board for further consideration in conformity with the attached memorandum.

The Minnesota Municipal Board allowed counsel for the parties to present oral arguments on OA-117-3 after parties had submitted written memoranda on the issue. These arguments were made to the Minnesota Municipal Board on March 13, 1981 and on May 27, 1981. The Minnesota Municipal Board reviewed the procedures it used in making its decision, and the facts supporting its decision.

After due and careful consideration and review, the Board again determined, that the City of Oak Park Heights had fully participated in the evidentiary hearing process spanning three days before the Municipal Board. Judge Tomljanovich had found that Oak Park Heights had fully participated in the hearing process before the Municipal Board. Further, the Board in making this determination, reviewed the evidence presented it and found that the statutory burden to support the annexation of the property to the City of Stillwater had been met and that it was in the best interests of the property that it be annexed to the City of Stillwater. Further, the Orderly Annexation Agreement had been the jurisdictional vehicle through which the matter was brought before the Board, but not a determinative factor as to whether the property should be annexed to the City of Stillwater. After review of the evidence the Board found the weight of the evidence supported the annexation of the area before it to the City of Stillwater.

Accordingly, the Minnesota Municipal Board amends its order in conformity with Judge Tomljanovich's Order of October 20, 1981.

 July 17, 1981